



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 11, 2004

H.R. 2728 **Occupational Safety and Health Small Business** **Day in Court Act of 2004**

*As ordered reported by the House Committee on Education and the Workforce
on May 5, 2004*

H.R. 2728 would modify the Occupational Safety and Health Act to provide exceptions to the 15-day deadline for employers to file responses to citations made by the Occupational Safety and Health Agency (OSHA). Under current law, employers who receive a citation or proposed assessment of penalty from OSHA must file a notice of contest within 15 days from receipt of the citation. The citation and assessment are deemed a final order of the Occupational Safety and Health Review Commission (OSHRC) if the 15-day deadline is not met. Since the early 1980s, however, OSHRC has applied Rule 60(b) of the Federal Rules of Civil Procedure and has granted relief from the final order in cases where an employer filed a late notice of contest because of "mistake, inadvertence, surprise, or excusable neglect."

H.R. 2728 would codify the equitable standard contained in Rule 60(b) and ensure consistent application of that standard across all jurisdictions in cases involving an employer's failure to file a timely notice of contest. CBO estimates that implementing H.R. 2728 would not have any effect on the federal budget.

H.R. 2728 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact is Shawn Bishop. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.